

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1065

AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-10.2-4-7, AS AMENDED BY P.L.149-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the

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member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, **or to a member of the public employees' retirement fund after June 30, 2008.** If:

(1) the designated beneficiary dies while the member is receiving benefits; or

(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or

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two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

- (1) the member's retirement option under subsection (b);
- (2) the selection of a lump sum payment under section 2 of this chapter; or
- (3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

SECTION 2. IC 5-10.2-4-7.2, AS AMENDED BY SEA 210-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.2. (a) This section applies to **the following**:

(1) A member of the Indiana state teachers' retirement fund after June 30, 2007.

**(2) A member of the public employees' retirement fund after June 30, 2008.**

(b) Subject to subsection (g), if a member is receiving a benefit from the fund and:

- (1) the member's designated beneficiary dies;
- (2) the member and the member's designated beneficiary ~~are~~ **have been** parties in an action for dissolution of marriage in which a final order ~~is~~ **has been** issued after the member's first benefit payment is made. ~~or It is immaterial whether the final order was issued before, on, or after the date in subsection (a)(1) or (a)(2); or~~
- (3) the member marries after the member's first benefit payment is made, and:

(A) the member's designated beneficiary is not the member's current spouse; or

(B) the member has not designated a beneficiary;

the member may make the election described in subsection (c).

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- (c) A member described in subsection (b) may elect to:
- (1) change the member's designated beneficiary or form of benefit under section 7(b) of this chapter; and
  - (2) receive an actuarially adjusted and recalculated benefit for the remainder of:

- (A) the member's life; or
- (B) the member's life and the life of the newly designated beneficiary.

(d) A member making the election under subsection (c) may not elect to change to a five (5) year guaranteed form of benefit under section 7(b) of this chapter.

(e) If a member elects a benefit under subsection (c)(2)(B), the member must indicate whether the newly designated beneficiary's benefit will equal:

- (1) the member's full recalculated benefit;
- (2) two-thirds ( $2/3$ ) of the member's recalculated benefit; or
- (3) one-half ( $1/2$ ) of the member's recalculated benefit.

(f) The member bears the cost of recalculating a benefit under subsection (c)(2), and the cost shall be included in the actuarial adjustment.

(g) A member may not make the election under subsection (c) if a final order or property settlement in an action for dissolution of marriage:

- (1) prohibits a change in the member's designated beneficiary; or
- (2) provides a right to a survivor benefit to a person who would be removed as the designated beneficiary.

(h) Benefits may be recalculated under this section only to the extent permitted by the Internal Revenue Code and applicable regulations.

(i) Before implementing this section, the board ~~of the Indiana state teachers' retirement fund~~ may obtain any approvals that the board considers necessary or appropriate from the Internal Revenue Service.

SECTION 3. IC 5-10.2-4-8.4, AS ADDED BY P.L.119-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 8.4. (a) This section does not apply to a member of the Indiana state teachers' retirement fund who is eligible to retire under IC 5-10.2-2-8(b).

- (b) A member of the Indiana state teachers' retirement fund who:
- (1) serves in an elected position; and
  - (2) after June 30, 2006, makes an election under section 8.2(b) of this chapter to begin receiving, while the member holds the elected position **or not later than thirty (30) days after the day**

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**on which the member's elected term of office ends**, the retirement benefits to which the member is entitled by age and service;

may choose at the member's retirement date whether to retire from the Indiana state teachers' retirement fund or from the public employees' retirement fund.

(c) If the member described in subsection (b) chooses to retire from the public employees' retirement fund, that fund is responsible for the payment of benefits provided under this chapter, and the Indiana state teachers' retirement fund shall pay to the public employees' retirement fund:

- (1) the amount credited to that member in the annuity savings account in the Indiana state teachers' retirement fund; and
- (2) the proportionate actuarial cost of the member's pension.

**SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "fund" refers to the public employees' retirement fund established under IC 5-10.3-2-1 and the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.**

**(b) Notwithstanding any other provision in IC 5-10.2, IC 5-10.3, or IC 5-10.4, if:**

- (1) a member of the fund was receiving a benefit from the fund;**
- (2) the member was a party with the member's designated beneficiary in an action for dissolution of marriage in which a final order:**
  - (A) was issued after the member's first benefit was paid; and**
  - (B) specified that the member's designated beneficiary would not take a benefit from the fund as a designated beneficiary or surviving spouse;**
- (3) following the issuance of the final order described in subdivision (2), the member died; and**
- (4) the member's spouse at the time of the member's death was not the designated beneficiary;**

**the surviving spouse of the member of the fund is entitled to file an application with the fund before September 1, 2008, to be designated the member's designated beneficiary and to receive benefits from the fund as a designated beneficiary to the extent the surviving spouse otherwise qualifies for the benefits.**

**(c) In order to be designated a designated beneficiary under subsection (b), the surviving spouse must submit a certified copy of the final order described in subsection (b)(2) of this SECTION.**

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**(d) This SECTION expires September 1, 2008.**

**SECTION 5. An emergency is declared for this act.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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**HEA 1065 — Concur+**

